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5 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
6 AT SEATTLE

7 JESUS GONZALEZ-QUEZADA,)
8)
9 Petitioner,) Case No. C09-0168-RAJ-JPD
10)
11 v.)
12)
13 ELDON VAIL,) ORDER OF DISMISSAL
14) WITHOUT PREJUDICE OF
15 Respondent.) UNEXHAUSTED CLAIMS
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23)

24 The Court, having reviewed petitioner's 28 U.S.C. § 2254 petition for writ of habeas
25 corpus (Dkt. 4), the Report and Recommendation Regarding Unexhausted Claims of United States
26 Magistrate Judge James P. Donohue, the governing law, and the balance of the record, does
27 hereby find and ORDER:

- 28 (1) The Court adopts the Report and Recommendation Regarding Unexhausted
29 Claims;
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31 (2) As enumerated in the Report and Recommendation Regarding Unexhausted
32 Claims, the following unexhausted claims are DISMISSED WITHOUT
33 PREJUDICE from the petition and this case: Issues 3(b)–(d); Issues 7(a)–(d) and
34 (f); and Grounds 4, 5, 8, 9, and 10;
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36 (3) Petitioner's remaining, fully exhausted claims shall proceed: Issues 3(a) and (e)–
37 (f); Issue 7(e); and Grounds 1, 2, and 6;

38 (4) Respondent is directed to file a brief that substantively addresses petitioner's
39 ORDER OF DISMISSAL WITHOUT PREJUDICE OF UNEXHAUSTED CLAIMS-1

1 exhausted claims within thirty (30) days of the date of this order and to note it for
2 consideration on the fourth Friday after filing, the same day that petitioner's
3 optional reply is due; and

- 4 (5) The Clerk of Court is directed to send copies of this Order to petitioner and to
5 Magistrate Judge James P. Donohue.

6 IT IS SO ORDERED.

7 DATED this 2nd day of October, 2009.

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10 The Honorable Richard A. Jones
11 United States District Judge
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